

REMARKS

In the Office Action, the Examiner rejected claims 1-16 and 21-34. By this paper, Applicants amended claims 10, 21, and 27 for clarification of certain features to expedite allowance of the present application. These amendments do not add any new matter. Upon entry of these amendments, claims 1-16 and 21-34 will remain pending in the present application and are believed to be in condition for allowance. In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

Claim Rejections under Doctrine of Obviousness-Type Double Patenting

In the Office Action, the Examiner rejected claims 1-16 and 21-34 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of the Hanas et al. reference (U.S. Patent No. 6,266,248). Applicants note the Hanas et al. reference is not in any way related to the present application (e.g., not commonly assigned and different inventive entities) and, in fact, only has nine claims. As such, Applicants believe the Examiner's rejection on the basis of the Hanas et al. reference to be erroneous and request its withdrawal. Further, if the Examiner were to indicate a different reference having common inventorship, or which is commonly assigned with respect to the present application, Applicants would consider filing a terminal disclaimer if necessary when the claims are indicated as allowable.

Claim Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-10, 12-16, and 21-34 under U.S.C. § 102(b) as anticipated by Hanas et al. (U.S. Patent No. 6,266,248). Of these, claims 1, 10, 21, and 27 are independent claims. Applicants respectfully traverse this rejection.

Legal Precedent

First, anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under Section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter. The prior art reference also must show the *identical* invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Independent Claim 1 Features Omitted from Cited Reference

Turning now to the claims, independent claim 1 recites subject matter omitted from the Hanas et al. reference on which the Examiner relies. Among other things, independent claim 1 provides “a release member movably coupled to the latch member, wherein the release member comprises a grip configured for bending the release member *to effectuate a movement* of the latch member to a released position” (emphasis added).

Applicants respectfully assert that the Examiner has mischaracterized the Hanas et al. reference in rejecting independent claim 1. For example, the Hanas et al. reference fails to disclose a release member comprising “a grip configured for bending the release member *to effectuate a movement* of the latch member to a released position,” as recited by the present claim. The Hanas et al. reference teaches a latch member 26, and a resilient clip 34 having a release portion 64. Col. 2, line 40; col. 3, lines 24-25. The Examiner equates the clip and release portion of the reference to the release member and

grip recited by the present claim. However, even assuming for the sake of argument that the Examiner's comparison is appropriate, the Hanas et al. reference explicitly states that bending the release portion merely frees the latch member, permitting the latch member to be rotated. Col. 3, lines 41-46. However, permitting movement is not equivalent to causing or "effectuating" movement. In fact, in the present reference, it is the biasing force applied by spring portion 48 that causes, or "effectuates," the movement of the latch member, not the bending of the release portion of the clip. Col. 3, lines 46-49. It would, therefore, be erroneous to suggest that bending release portion 64 of resilient clip 34 of the present reference would "*effectuate* a movement of the latch member" as recited by the instant claim. Because the Hanas et al. reference fails to disclose "a grip configured for bending the release member *to effectuate a movement* of the latch member to a released position," the reference cannot anticipate independent claim 1.

Independent Claim 10 Features Omitted from Cited Reference

Similarly, the recitations of independent claim 10, as amended, also include subject matter omitted from the Hanas et al. reference. For example, independent claim 10 recites "release member . . . *hingedly* coupled to the low profile latch" (emphasis added). Further, independent claim 10 also recites "a modular housing comprising an accessible side and a lateral side."

The Hanas et al. reference fails to disclose each and every element of independent claim 10, as amended. Particularly, the cited reference does not disclose a release member "hingedly coupled" to a low profile latch. As discussed above, the Examiner equated the release portion 64 of the resilient clip 34 of Hanas et al. to the release member recited by claim 10. However, the resilient clip 34 is not coupled, much less hingedly coupled, to the latch member 26. Instead, the resilient clip 34 is fixedly secured to a bracket member 12 via screws 42. Col. 2, line 66 – col. 3, line 1. While the latch member 26 of the present reference may rotate about the pivot pin 22 to allow a distal end of the latch member 26 to enter into engagement with the resilient clip 34, it is evident

that the resilient clip 34 is not “hingedly coupled” to the latch member 26. *See* Col. 3, lines 11-40; Figures 3, 6, and 7. In fact, the Hanas et al. reference fails to teach or disclose the resilient clip 34 “hingedly coupled” to *any* structure. Consequently, it would be incorrect to suggest that the reference discloses a “release member . . . hingedly coupled to the low profile latch” as recited in the present claim.

Further, the Hanas et al. reference is directed to securing a circuit card within an electronic device. Col. 1, lines 36-60. In the Office Action, the Examiner compared the circuit card 10 of the Hanas et al. reference to the modular component of the instant claim. However, as mentioned previously, the present claim recites a modular component having “a modular housing comprising an accessible side and a lateral side.” The Examiner has failed to point to any corresponding structure in the Hanas et al. reference. Applicants respectfully submit that the likely reason for this failure is that circuit card 10 does not have any housing structure. Because the reference fails to disclose every element of the present claim, independent claim 10 is believed to be allowable over the Hanas et al. reference.

Independent Claim 21 Features Omitted from Cited Reference

Additionally, the Hanas et al. reference also fails to disclose each and every element of amended independent claim 21. For instance, independent claim 21 recites “a bending-activated release . . . configured to move the tool-free coupling between the latched and released positions in both directions.”

The Examiner incorrectly relies on release portion 64 of resilient clip 34 of the Hanas et al. reference as satisfying the recitation of independent claim 21 provided immediately above. However, as discussed above with respect to claim 1, the release portion of the present reference *does not move the latch member* at all. Applicants note that latch member 26 has a user engagable portion 54 that is used to manually pivot the latch member between the latched and released positions. Col. 3, lines 41-53. Because it

is this manual force acting upon the latch member, not the bending of release portion 64, that moves the latch member between the latched and unlatched positions, the reference clearly does not disclose “a bending-activated release . . . configured to move the tool-free coupling between the latched and released positions in both directions” as recited by independent claim 21. Accordingly, Applicants believe the claim to be patentable over the cited reference.

Independent Claim 27 Features Omitted from Cited Reference

Also, independent claim 27, as amended, recites elements not disclosed by the Hanas et al. reference. Such elements include, among other things, “a tool-free coupling substantially located at a first side of a device” and “a flex-activated release substantially located at a second side of the device . . . wherein the second side is different than the first side.”

In rejecting claim 27, the Examiner related latch member 26 and release portion 64 (of resilient clip 34) of the Hanas et al. reference to the tool-free coupling and flex-activated release, respectively, of the present claim. However, in the present reference, the latch member 26 and release portion 64 are each substantially located on the same side of the device. Consequently, even if the Examiner were correct in comparing the latch member 26 and release portion 64 of the reference to certain structural features recited in the present claim, the reference cannot be fairly interpreted as disclosing “a tool-free coupling substantially located at a first side of a device” and “a flex-activated release substantially located at a second side of the device . . . *wherein the second side is different than the first side*” (emphasis added). Because the cited reference fails to disclose each element of the claim, it cannot support a *prima facie* case of anticipation.

Request for Allowance

As discussed above, independent claims 1, 10, 21, and 27 recite numerous features that are not present in the Hanas et al. reference relied upon by the Examiner.

Consequently, the cited reference cannot anticipate these claims. Thus, Applicants believe independent claims 1, 10, 21, and 27 to be patentable over the Hanas et al. reference. Additionally, claims 2-9, 12-16, 22-26, and 28-34 each depend from one of these independent claims. These dependent claims are also believed to be allowable over the cited reference based on their dependency from an allowable independent claim, as well as the subject matter recited by each claim. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102 and allowance of claims 1-10, 12-16, and 21-34.

Claim Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claim 11 under 35 U.S.C. § 103(a) as obvious over Hanas et al. (U.S. Patent No. 6,266,248) in view of Lee (U.S. Patent No. 6,571,340).

Legal Precedent

First, the burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d. 1430 (Fed. Cir. 1990). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985).

Deficiencies of Rejection

As discussed above, the Hanas et al. reference fails to disclose every element of independent claim 10, from which claim 11 depends. The Lee reference fails to obviate the deficiencies of the Hanas et al. reference. As a result, claim 11 is allowable on the basis of its dependency from allowable independent claim 10, as well as for its recited subject matter. Accordingly, Applicants respectfully request withdrawal of the Examiner's rejection and allowance of claim 11.

Conclusion

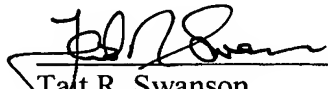
Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

General Authorization for Extensions of Time and Payment of Fees

In accordance with 37 C.F.R. § 1.136, Applicants hereby provide a general authorization to treat this and any future reply requiring an extension of time as incorporating a request therefor. Furthermore, Applicants authorize the Commissioner to charge the appropriate fee for any extension of time, and any additional fees which may be required, to Deposit Account No. 08-2025; Order No. COMP:0248-1/FLE (200302229-2).

Respectfully submitted,

Date: October 29, 2004


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